

1 **REMV**

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18 Attorneys for Defendant/Counterclaimant/Cross-Claimant,

19 Randstad Professionals US, LP

20 **UNITED STATES DISTRICT COURT**

21 **DISTRICT OF NEVADA**

22 COUNT'S KUSTOMS, LLC, a Nevada
23 corporation,

24 Case No.: 2:16-cv-00910-JAD-GWF

25 Plaintiff,

26 vs.

27 JOSEPH FRONTIERA, an individual, and
28 RANDSTAD PROFESSIONALS US, LP,
a Delaware limited partnership, d/b/a
RANDSTAD PROFESSIONALS, DOES I
through X, and DOE CORPORATIONS XI
through XX, inclusive,

29 Defendants.

30 RANDSTAD PROFESSIONALS US, LP,

31 Plaintiff-in-Counterclaim,

32 COUNT'S KUSTOMS, LLC,

33 Defendant-in-Counterclaim.

34 RANDSTAD PROFESSIONALS US, LP,

35 Cross-Claimant,

36 JOSEPH FRONTIERA,

37 Cross-Defendant.

38 **AMENDED NOTICE OF REMOVAL**

39 AMENDED NOTICE OF REMOVAL

AMENDED NOTICE OF REMOVAL

2 To: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA
3 Defendant/Counter-Claimant/Cross-Claimant, Randstad Professionals US. LP
4 hereby Notice the Removal of this action to the United States District Court and, in
5 support thereof, states as follows:

6 1. On or about March 22, 2016, Plaintiff commenced an action in the Eighth
7 Judicial District Court, Clark County, Nevada, entitled *Count's Kustoms, LLC, v. Joseph*
8 *A. Frontiera, Randstad Professionals US, LP*, Case No. A-16-733821-C. A copy of
9 Plaintiffs Complaint is attached Exhibit A.

10 2. Service of Summons and Complaint upon Defendant/Counter-
11 Claimant/Cross-Claimant, Randstad US, LP dba Randstad Professionals , c/o CSC
12 Services of Nevada, Inc. as Registered Agent was made on March 28, 2016.

13 3. Defendant/Counter-Claimant/Cross-Claimant, Randstad US, LP filed an
14 Answer to Plaintiffs Complaint, Counterclaims Against Defendant in Counterclaim
15 Count's Kustoms, LLC, and Cross-Claims Against Cross-Defendant Joseph Frontiera
16 And Request for Designation as Business Court Matter on April 18, 2016. A copy of
17 Defendant Randstad US, LP's Answer, Cross-Claim and Counterclaim is attached a
18 Exhibit B.

19 4. This case was reassigned to Business Court, Case No. A-16-733821-B
20 on April 18, 2016. The court's Notice of Reassignment is attached as Exhibit C.

21 5. When Defendant filed the original Notice of Removal, Plaintiff had
22 filed a Motion to Strike Counterclaim or in the Alternative, Motion to Dismiss in
23 the Eighth Judicial District Court, Case No. A-16-733821 that Defendant was
24 unaware of. Attached as Exhibit D. A hearing has been scheduled for May 23,
25 2016 at 9:00 a.m. in the Eighth Judicial District Court, Department 13.

26 6. This Court has original jurisdiction over the subject matter of this action
27 pursuant to 28 U.S.C. §1332. Further, this matter is one that may be removed to this
28 Court pursuant to 28 U.S.C. §1441 because it is a civil action that is between citizens of

AMENDED NOTICE OF REMOVAL

1 different states and in which the amount in controversy exceeds \$75,000, exclusive of
2 interest and costs.

3 7. Plaintiff alleges in the Complaint that at all times relevant, Count's
4 Kustoms, LLC is and was a duly licensed business incorporated in the State of Nevada.

5 8. Plaintiff alleges in the Complaint that Defendant, Joseph Frontiera is now
6 believed to be a resident of DeFuniak Springs, Florida 32435.

7 9. Defendant/Counter-Claimant/Cross-Claimant, Randstad US, LP is and at
8 all times relevant, a Delaware Corporation, duly licensed to conduct business in the
9 State of Nevada, County of Clark.

10 10. DOES I-X and ROE CORPORATIONS I-X inclusive are named and sued
11 fictitiously and their citizenship is disregarded as a matter of law for purposes of removal
12 on grounds of diversity jurisdiction.

13 11. There is now and was at the time of the commencement of this action
14 complete diversity between Plaintiff and all Defendants.

15 12. The Complaint alleges claims for Breach of Contract, Breach of Covenant
16 of Good Faith & Fair Dealings, Fraud, Negligent Misrepresentation, Unjust Enrichment,
17 Conversion/Constructive Trust, Embezzlement – Civil Theft and Negligent Supervision.

18 13. Plaintiff prays for an award of general, compensatory, and special
19 damages in amount in excess of \$10,000.00, punitive damages in an amount sufficient
20 to deter similar conduct in the future, reasonable attorney's fees, costs and interest
21 incurred, and pre-judgment interest.

22 14. Plaintiff's demand for settlement sought a recovery of \$75,745.82.

23 15. Thirty days have not elapsed since Defendant/Counter-Claimant/Cross-
24 Claimant, Randstad US, LP which was served with a summons on March 28, 2016.

25 16. A true and correct copy of this Notice of Removal is being filed on this
26 date with the Clerk of the Eighth Judicial District Court, Clark County, Nevada.

27 17. Based on the foregoing, Defendant/Counter-Claimant/Cross-Claimant

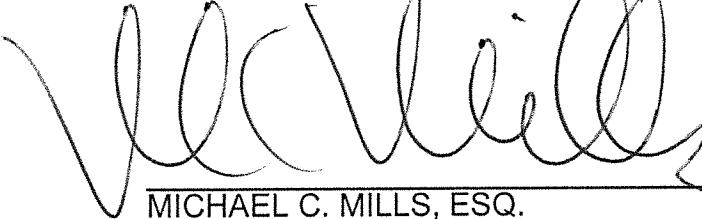
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AMENDED NOTICE OF REMOVAL

1 hereby removes the above-referenced action now pending in the Eighth Judicial District
2 Court, in and for the County of Clark, as Case No. A-16-733821-B to this Court.

3 DATED this 27th day of April 2016.

4 BAUMAN LOEWE WITT & MAXWELL, PLLC



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6
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15 Attorneys for Defendant/Plaintiff-in-
16 Counterclaim/Cross-Claimant
Randstad Professionals US, LP

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19

20 A Plaintiff's Complaint
21 B Defendant's Answer, Counter-claim and Cross Claim.
22 C Notice of Reassignment to Business Court.
D Plaintiffs Motion to Strike or Dismiss

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AMENDED NOTICE OF REMOVAL

EXHIBIT "A"

EXHIBIT "A"

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John B. Schum
CLERK OF THE COURT

1 COMP
2 STEVEN MACK, ESQ.
3 Nevada Bar No. 4000
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8 (702) 869-2669 (fax)
9 smack@blacklobellolaw.com
10 Attorneys for Plaintiff

7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

9 COUNT'S KUSTOMS, LLC, a Nevada
10 Corporation,

11 Plaintiff,

Case No.: A- 16- 733821- C
Dept No.: XXV 111

12 vs.

13 JOSEPH A. FRONTIERA, an individual, and
14 RANDSTAD PROFESSIONALS US, LP, a
15 Delaware Corporation dba RANDSTAD
16 PROFESSIONALS; DOES I-X and ROE
17 CORPORATIONS XI – XX, inclusive,

COMPLAINT

EXEMPT FROM ARBITRATION, CLAIM
OVER \$50,000.00

18 Defendants.

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Las Vegas, Nevada 89135
(702) 869-8801 FAX: (702) 869-2669

18 COMES NOW, Plaintiff, COUNT'S KUSTOMS, LLC, ("Plaintiff" or "CK"), a Nevada
19 Corporation, by and through its attorneys of record, Steven Mack, Esq. of the law firm of Black
20 & LoBello, and hereby files this Complaint against the above-named Defendants, and alleges as
21 follows:

22 PARTIES

23 1. Plaintiff, Count's Kustoms, LLC, at all times relevant herein, is and was a duly
24 licensed business incorporated in the State of Nevada.

25 2. Defendant, Joseph Frontiera, ("Frontiera") at all times relevant herein, was a
26 resident of the State of Nevada, County of Clark, and is now believed to be a resident of
27 DeFuniak Springs, Florida 32435.

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3. Defendant, Randstad Professionals UA, LLC dba Randstad Professionals
("Randstad"), at all times relevant herein, is and was a Delaware Corporation, duly licensed to
conduct business in the State of Nevada, County of Clark.

4 4. The true names and capacities of Defendants named herein DOES I through X
5 and ROE CORPORATIONS XI through XX, whether individual, corporate, business entities,
6 associates or otherwise, are set forth herein pursuant to Rule 10 of the Nevada Rules of Civil
7 Procedure as unknown to Plaintiff, who therefor sue said Defendants by such fictitious names.
8 Plaintiff is informed and believes, and therefore alleges, that each of the Defendants designated
9 herein as DOES I through XX and ROE CORPORATIONS I through XX, inclusive, are
10 responsible in some manner for the events and happenings herein referred to and negligently,
11 fraudulently, or in breach of contract caused injury and damages proximately thereby to the
12 Plaintiff as herein alleged. Plaintiff will ask leave of this Court to amend this Complaint to insert
13 the true names and capacities of said Defendants DOES I through XX and ROE
14 CORPORATIONS I through XX, inclusive, when the same have been ascertained by
15 PLAINTIFF, together with appropriate charging allegations, and to join such Defendants in this
16 action.

GENERAL ALLEGATIONS

18 5. On or about June 6, 2013, Defendant Frontiera was hired by CK through the
19 employment agency Defendant Randstad to serve as the General Manager to assist in the day to
20 day operations, including but not limited to hiring, marketing, accounting, daily operations
21 decisions, task assignments, inventory control, scheduling, collections, garage operations and
22 restoration projects in the absence of management.

23 6. Plaintiff chose Randstad in order to hire a highly trained, qualified person who
24 had been screened and vetted, including reference checks, background checks and verifications.

25 7. Plaintiff paid a fee to Randstad for their services in referring a person with a clear
26 background check including employment history and criminal history to it for employment as a
27 shop manager, i.e. Frontiera.

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1 8. Defendant Frontiera's main responsibilities were to keep operations running
2 smoothly and to make sure the vehicles being worked on were completed in a timely manner.

3 9. CK relied on Randstad to perform all of the duties represented by it various
4 marketing materials, written agreements and direct representations such that the person placed by
5 Randstad into CK, could be fully trusted to perform their job and handle company assets.

6 10. Had Randstad performed its duties adequately, it would have discovered
7 Frontiera's past employment history, which included prior charges for embezzlement when he
8 was in a position of such access.

9 11. In order to effect his job, Defendant Frontiera was added as a signer to the
10 accounts at Count's Kustoms.

11 12. Frontiera reported to Kevin Mack and Danial N. Koker, II, and was to run the
12 business day to day, as well as in their absence.

13 13. Unbeknownst to Plaintiff, Frontiera had signature stamps made of Daniel N.
14 Koker II and Kevin Mack for the purpose of stamping checks in their absence. Such signature
15 stamps were not authorized by Daniel N. Koker II or Kevin Mack.

16 14. Further, upon hiring of Frontiera, he began using Plaintiff's finances for personal
17 reasons not authorized by Plaintiff or Plaintiff's upper management.

18 15. CK monies were used by Frontiera for his personal use believed to be in excess of
19 \$75,000.00, and was discovered through investigation, including but not limited to:

20 a. Down payment of personal vehicle, Land Rover Range Rover, in the amount
21 of \$5,800.00;

22 b. Airline tickets for personal use in the amount of \$5,104.00;

23 c. Services paid for by Count's Kustoms for Defendant Frontiera's personal vehicles
24 in the amount of \$14,317.50.

25 16. In addition, Frontiera failed to perform his job adequately, such that he failed to
26 cause fourth quarter 2013 payroll taxes to be timely paid, in the approximate amount of
27 \$47,858.04, which resulted in IRS penalties of \$18,310.08.

28 17. Frontiera also failed to pay the Nevada State Department of Taxation timely,

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1 resulting in penalties and interest of \$8,645.55

2 18. Frontiera also failed to pay the Live Entertainment Tax, resulting in penalties of
3 \$1,662.59.

4 19. Frontiera also failed to pay the Sales & Use tax, resulting in penalties of
5 \$2,115.70.

6 **FIRST CLAIM FOR RELIEF**

7 (Breach of Contract)
(Randstad)

8 17. Plaintiff repeats and re-alleges each and every allegation heretofore stated and
9 incorporates same as thought fully set forth herein.

10 18. On or about June 6, 2013, Plaintiff and Defendants entered into an employment
11 contract for the hiring of Defendant Frontiera with Randstad.

12 19. Plaintiff performed all conditions, covenants, and promises required by it to be
13 performed in accordance with the parties

14 20. Defendant Randstad had allegedly performed a background screening of Defendant
15 Frontiera to ascertain any negative employment history and criminal convictions.

16 21. Defendant Randstad failed to perform the background screening and/or failed to
17 disclose to Plaintiff the results of said screening which should have revealed Defendant
18 Frontiera's negative employment history and criminal activity thereby failing to provide the very
19 services contracted.

20 22. As a result of Randstad's breach of contract, Plaintiff is entitled to damages in excess
21 of \$10,000.00 to be proven at the time of trial on the merits.

22 23. It has become necessary for Plaintiff to retain the services of Black & LoBello to
23 prosecute this action and Plaintiff is entitled to an award of reasonable attorneys' fees and
24 interest under Nevada law.

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SECOND CLAIM FOR RELIEF
(Breach of Covenant of Good Faith & Fair Dealing)
(Randstad)

24. Plaintiff repeats and re-alleges each and every allegation heretofore stated and incorporates same as thought fully set forth herein.

25. There exists in law and all contracts an implied covenant of good faith and fair dealing.

26. Randstad breached the covenant of good faith and fair dealing by failing to perform their contractual obligations, as set forth in the paragraphs above.

27. Randstad further breached the covenant of good faith and fair dealing by failing to perform its contractual duties of providing a vetted employee, or failed to inform Plaintiff of Frontier's negative employment history and criminal background.

28. As a result of Randstad, breach of implied covenant of good faith and fair dealing, Plaintiff is entitled to damages in excess of \$10,000.00 to be proven at the time of trial on the merits.

29. It has become necessary for Plaintiff to retain the services of Black & LoBello to prosecute this action and Plaintiff is entitled to an award of reasonable attorneys' fees and interest under Nevada law.

THIRD CLAIM FOR RELIEF
(Fraud)
(Frontiera and Randstad)

30. Plaintiff repeats and re-alleges each and every allegation heretofore stated and incorporates same as thought fully set forth herein.

31. Defendant Frontiera was hired on June 6, 2013 by Plaintiff from Defendant Randstad Professional. Randstad Professional allegedly conducts background screening on all potential employees prior to referring them to clients for hire. Plaintiff relied upon Defendant Randstad's assertion that Defendant Frontiera was suitable for employment.

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1 32. Defendant Randstad represented to Plaintiff that Defendant Frontiera was a qualified
2 potential employee and had passed their background screening with no negative employment
3 history or criminal history prior to being hired in June of 2013.

4 33. Further, Frontiera represented himself as a qualified employee without negative
5 employment history or criminal history.

6 34. After Plaintiff began finding irregularities in its accounting as well as some of the
7 clients' accounts and projects, Plaintiff conducted its own background screening and found that
8 Defendant Frontiera had, in fact, a criminal history with a past employer in Florida for
9 embezzlement and fraud.

10 35. Randstad knew or should have known the employment history and criminal history of
11 Defendant Frontiera had it properly conducted the background screening as purported to
12 Plaintiff.

13 36. Plaintiff further relied on Randstad's representation to its detriment, as it would not
14 have employed Frontiera had Plaintiff been fully apprised of the true nature of Frontiera's
15 employment history and criminal background by Randstad

16 37. Plaintiff has been monetarily damaged by relying upon Randstad's and Defendant
17 Frontiera's misrepresentations or failures to disclose that Frontiera did not have a negative
18 employment history nor did he have a criminal history, whereby Frontiera

19 38. Plaintiff is entitled to exemplary and punitive damages pursuant to NRS 42.005 for
20 the misconduct of Defendants.

21 39. As a result of the Intentional Misrepresentation of Defendants', and each of them,
22 Plaintiff is entitled to damages in excess of \$10,000.00 to be proven at the time of trial on the
23 merits.

24 40. It has become necessary for Plaintiff to retain the services of Black & LoBello to
25 prosecute this action and Plaintiff is entitled to an award of reasonable attorneys' fees and
26 interest under Nevada law.

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FOURTH CLAIM FOR RELIEF

(Negligent Misrepresentation)

(Randstad)

41. Plaintiff repeats and re-alleges each and every allegation heretofore stated and incorporates same as thought fully set forth herein.

42. Randstad owed a duty to Plaintiff to disclose all employment history and criminal history regarding Frontiera.

43. Plaintiff relied on Defendants representations to enter into an employment contract with Defendant Frontiera.

44. As a result of Defendants' representations regarding their purchase of the Subject Property, Plaintiff has suffered damages in excess of \$10,000, the exact amount to be determined at the time of trial.

45. It has become necessary for Plaintiff to retain the services of Black & LoBello to prosecute this action and Plaintiff is entitled to an award of reasonable attorneys' fees and interest under Nevada law.

FIFTH CLAIM FOR RELIEF

(Unjust Enrichment)

(Frontiera and Randstad)

46. Plaintiff repeats and re-alleges each and every allegation heretofore stated and incorporates same as thought fully set forth herein.

47. Randstad misrepresented Frontiera's background screening regarding his employment history and criminal history and received payment from Plaintiff, because Plaintiffs believed that they were obtaining a qualified and vetted employee.

48. Defendant Frontiera used his position as shop manager to his personal monetary advantage, without the approval of Plaintiff's upper management, and monetarily harming Plaintiff without benefit to Plaintiff.

49. It would be inequitable and unjust to allow Defendants, and each of them, to reap the benefits of their wrongful conduct.

50. As a result of Defendants' actions set forth in the paragraphs above, Plaintiff has been damaged and Defendants have been unjustly enriched in an amount in excess of \$10,000.00.

51. It has become necessary for Plaintiff to retain the services of Black & LoBello to prosecute this action and Plaintiff is entitled to an award of reasonable attorneys' fees and interest under Nevada law.

SIXTH CLAIM FOR RELIEF
(Conversion/Constructive Trust)
(Frontiera)

52. Plaintiff repeats and re-alleges each and every allegation heretofore stated and incorporates same as thought fully set forth herein.

53. Defendant Frontiera wrongfully and inappropriately exerted an act of domain over Plaintiff's monies by virtue of and taking advantage of his position with Plaintiff.

54. The act was in denial of, or inconsistent with Plaintiff's property, including money, at its place of business or the act was in derogation, exclusion or defiance of Plaintiff's title or rights in the monetary or other property.

55. As a result of Defendants' actions set forth in the paragraphs above, Plaintiff has been damaged and Defendants have been unjustly enriched in an amount in excess of \$10,000.00.

56. It has become necessary for Plaintiff to retain the services of Black & LoBello to prosecute this action and Plaintiff is entitled to an award of reasonable attorneys' fees and interest under Nevada law.

SEVENTH CLAIM FOR RELIEF
(Embezzlement – Civil Theft)
(Frontiera)

57. Plaintiff repeats and re-alleges each and every allegation heretofore stated and incorporates same as thought fully set forth herein.

58. Defendant Frontiera, as the shop manager, was entrusted with business transactions, bank accounts, credit, money, property, employees and financial information of Plaintiff.

59. Defendant Frontiera used or appropriated the business transactions, money, property,

1 employees and financial information, for another purpose than that for which he was entrusted
2 believed to be in excess of \$75,000.00, including, but not limited to, the down payment for his
3 personal vehicle, a Land Rover Range Rover, in the amount of \$5,800.00, airline tickets for
4 personal use in the amount of \$5,104.00, services paid for Defendant Frontiera's personal
5 vehicles in the amount of \$14,317.50, and payments for Defendant Frontiera's personal charge
6 accounts with Home Depot.

7 60. As a result of Defendants' actions set forth in the paragraphs above, Plaintiff has been
8 damaged and Defendants have been unjustly enriched in an amount in excess of \$10,000.00.

9 61. Defendant Frontiera's actions were intentional, willful and malicious, and Plaintiff is
10 entitled to punitive and exemplary damages pursuant to NRS 42.005.

11 62. It has become necessary for Plaintiff to retain the services of Black & LoBello to
12 prosecute this action and Plaintiff is entitled to an award of reasonable attorneys' fees and
13 interest under Nevada law.

14 **EIGHTH CLAIM FOR RELIEF**

15 (Negligent Supervision)
(Randstad)

16 63. Plaintiff repeats and re-alleges each and every allegation heretofore stated and
17 incorporates same as thought fully set forth herein.

18 64. Randstad knew or should have known that Frontiera had a criminal background,
19 which included the allegations of prior similar bad acts, including prior allegations of
20 embezzlement.

21 65. That Randstad, understood the role that Frontiera was to be hired for at CK, yet
22 never-the-less, provided him to CK. Randstad represented Frontiera as a person that was vetted
23 and qualified to perform the functions, such that he could be trusted with autonomy and access to
24 financial information and accounts, in a position of great responsibility, access and power.

25 66. As a result of Defendants' actions set forth in the paragraphs above, Plaintiff has been
26 damaged and Defendants have been unjustly enriched in an amount in excess of \$10,000.00.

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1 67. It has become necessary for Plaintiff to retain the services of Black & LoBello to
2 prosecute this action and Plaintiff is entitled to an award of reasonable attorneys' fees and
3 interest under Nevada law.

4 68. A judicial determination is necessary and appropriate at this time in order to
5 determine the rights and duties of the parties.

6 WHEREFORE, Plaintiff requests the following relief:

7 1. For an award of general, compensatory, and special damages as set forth above in
8 an amount in excess of \$10,000, a specific amount to be determined at trial;
9 2. For an award of punitive damages in an amount sufficient to deter similar conduct
10 in the future;
11 3. For reasonable attorney's fees, costs and interest incurred;
12 4. For an award of pre-judgment interest; and
13 5. For such other further relief as the court deems proper.

14 DATED this ____ day of March 2016.

15 BLACK & LOBELLO

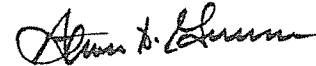


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21 Attorneys for Plaintiff
22
23
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EXHIBIT "B"

EXHIBIT "B"

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CLERK OF THE COURT

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18 Attorney for Defendant/Counterclaimant/Cross-Claimant,
19 Randstad Professionals US, LP

20 DISTRICT COURT

21 CLARK COUNTY, NEVADA

22 COUNT'S KUSTOMS, LLC, a Nevada
23 corporation,

24 Case No.: A-16-733821-C
25 Dept. No.: XXVIII

26 Plaintiff,

27 vs.
28 REQUEST FOR DESIGNATION AS
"BUSINESS MATTER" PURSUANT TO
EJDCR 1.61.

JOSEPH FRONTIERA, an individual, and
RANDSTAD PROFESSIONALS US, LP,
a Delaware limited partnership, d/b/a
RANDSTAD PROFESSIONALS, DOES I
through X, and DOE CORPORATIONS XI
through XX, inclusive,

Defendants.

RANDSTAD PROFESSIONALS US, LP,

Plaintiff-in-Counterclaim,

COUNT'S KUSTOMS, LLC,

Defendant-in-Counterclaim.

DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
COUNTERCLAIMS AGAINST DEFENDANT-IN-COUNTERCLAIM COUNT'S KUSTOMS, LLC, AND
CROSS-CLAIMS AGAINST CROSS-DEFENDANT JOSEPH FRONTIERA AND
REQUEST FOR DESIGNATION AS BUSINESS COURT MATTER

1 RANDSTAD PROFESSIONALS US, LP,
2 Cross-Claimant,
3 JOSEPH FRONTIERA,
4 Cross-Defendant.

DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S
COMPLAINT, COUNTERCLAIMS AGAINST DEFENDANT-IN-COUNTERCLAIM
COUNT'S KUSTOMS, LLC, AND CROSS-CLAIMS AGAINST
CROSS-DEFENDANT JOSEPH FRONTIERA AND
REQUEST FOR DESIGNATION AS BUSINESS COURT MATTER

9 COMES NOW Defendant/Plaintiff-in-Counterclaim/Cross-Claimant, Randstad
10 Professionals US, LP ("Randstad"), by and through its counsel of record, Michael C.
11 Mills, Esq., of the law firm of Bauman Loewe Witt & Maxwell, PLLC, and Eric R.
12 McDonough, Esq. and Amy A. Abeloff, Esq., of the law firm of Seyfarth Shaw LLP, and
13 requests that this Honorable Court designate this as a Business Court Matter pursuant
14 to EJDCR 1.61(c)(2) files this Answer to Complaint, Counterclaims Against Defendant-
15 in-Counterclaim Count's Kustoms, LLC ("CK"), and Cross-Claims Against Cross-
16 Defendant Joseph Frontiera ("Frontiera") as follows:

GENERAL ALLEGATIONS

18 1. Answering Paragraph 1 of Plaintiff's Complaint, this answering Defendant,
19 Randstad admits the allegations contained therein.

20 2. Answering Paragraph 2 of Plaintiff's Complaint, this answering Defendant
21 Randstad is without sufficient information upon which to base a belief as to the truth or
22 falsity of the allegations contained therein and upon said ground denies the same, and
23 avers that Frontiera resided in the State of Nevada at the time of his employ with
24 Plaintiff.

25 3. Answering Paragraph 3 of Plaintiff's Complaint, this answering Defendant
26 Randstad denies the allegations contained therein, and avers that Defendant Randstad

27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
28 COUNTERCLAIMS AGAINST DEFENDANT-IN-COUNTERCLAIM COUNT'S KUSTOMS, LLC, AND
CROSS-CLAIMS AGAINST CROSS-DEFENDANT JOSEPH FRONTIERA AND
REQUEST FOR DESIGNATION AS BUSINESS COURT MATTER

1 is a limited partnership organized under the laws of the State of Delaware.

2 4. Answering Paragraph 4 of Plaintiff's Complaint, this answering Defendant
3 Randstad denies the allegations contained therein.

4 5. Answering Paragraph 5 of Plaintiff's Complaint, this answering Defendant
5 Randstad denies the allegations contained therein, and avers that on or around June
6 17, 2013, Frontiera was hired by CK through the use of Randstad's services to serve as
7 Controller on a temporary basis.

8 6. Answering Paragraph 6 of Plaintiff's Complaint, this answering Defendant
9 Randstad is without sufficient information upon which to base a belief as to the truth or
10 falsity of the allegations contained therein and upon said ground denies the same.

11 7. Answering Paragraph 7 of Plaintiff's Complaint, this answering Defendant
12 Randstad denies the allegations contained therein, except admits that CK paid to
13 Randstad a fee, and avers that such fee was to compensate Randstad for services
14 rendered to CK as described in the Randstad Finance & Accounting Service Agreement
15 (the "Agreement") that Randstad prepared for CK's and Frontiera's signature.

16 8. Answering Paragraph 8 of Plaintiff's Complaint, this answering Defendant
17 Randstad is without sufficient information upon which to base a belief as to the truth or
18 falsity of the allegations contained therein as the substance of Paragraph 8 does not
19 clearly designate to which of Frontiera's positions at CK Plaintiff refers, and upon said
20 ground denies the same.

21 9. Answering Paragraph 9 of Plaintiff's Complaint, this answering Defendant
22 Randstad is without sufficient information upon which to base a belief as to the truth or
23 falsity of the allegations contained therein as the substance of Paragraph 9 does not
24 clearly designate to which of Frontiera's positions at CK Plaintiff refers and upon said
25 ground denies the same, and avers that the Agreement describes the rights,
26 expectations and obligations of all signatories.

27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
28 COUNTERCLAIMS AGAINST DEFENDANT-IN-COUNTERCLAIM COUNT'S KUSTOMS, LLC, AND
CROSS-CLAIMS AGAINST CROSS-DEFENDANT JOSEPH FRONTIERA AND
REQUEST FOR DESIGNATION AS BUSINESS COURT MATTER

1 10. Answering Paragraph 10 of Plaintiff's Complaint, this answering
2 Defendant Randstad denies the allegations contained therein.

3 11. Answering Paragraph 11 of Plaintiff's Complaint, this answering
4 Defendant Randstad is without sufficient information upon which to base a belief as to
5 the truth or falsity of the allegations contained therein and upon said ground denies the
6 same.

7 12. Answering Paragraph 12 of Plaintiff's Complaint, this answering
8 Defendant Randstad is without sufficient information upon which to base a belief as to
9 the truth or falsity of the allegations contained therein as the substance of Paragraph 12
10 does not clearly designate to which of Frontiera's positions at CK Plaintiff refers, and
11 upon said ground denies the same.

12 13. Answering Paragraph 13 of Plaintiff's Complaint, this answering
13 Defendant Randstad is without sufficient information upon which to base a belief as to
14 the truth or falsity of the allegations contained therein and upon said ground denies the
15 same.

16 14. Answering Paragraph 14 of Plaintiff's Complaint, this answering
17 Defendant Randstad is without sufficient information upon which to base a belief as to
18 the truth or falsity of the allegations contained therein and upon said ground denies the
19 same.

20 15. Answering Paragraph 15 of Plaintiff's Complaint, this answering
21 Defendant Randstad is without sufficient information upon which to base a belief as to
22 the truth or falsity of the allegations contained therein and upon said ground denies the
23 same.

24 16. Answering Paragraph 16 of Plaintiff's Complaint, this answering
25 Defendant Randstad is without sufficient information upon which to base a belief as to
26 the truth or falsity of the allegations contained therein and upon said ground denies the

27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
28 COUNTERCLAIMS AGAINST DEFENDANT-IN-COUNTERCLAIM COUNT'S KUSTOMS, LLC, AND
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same.

17. Answering Paragraph 17 of Plaintiff's Complaint, this answering Defendant Randstad is without sufficient information upon which to base a belief as to the truth or falsity of the allegations contained therein and upon said ground denies the same.

18. Answering Paragraph 18 of Plaintiff's Complaint, this answering Defendant Randstad is without sufficient information upon which to base a belief as to the truth or falsity of the allegations contained therein and upon said ground denies the same.

19. Answering Paragraph 19 of Plaintiff's Complaint, this answering Defendant Randstad is without sufficient information upon which to base a belief as to the truth or falsity of the allegations contained therein and upon said ground denies the same.

FIRST CLAIM FOR RELIEF

(Breach of Contract)

(Randstad)

20. Answering mislabeled Paragraph 17 of Plaintiff's Complaint, this answering Defendant Randstad repeats and re-alleges his answers as set forth in Paragraphs 1 through 19 above with the same force and effect as though fully set forth herein.

21. Answering mislabeled Paragraph 18 of Plaintiff's Complaint, this answering Defendant Randstad denies the allegations contained herein, and avers that on or around June 17, 2013, Frontiera was hired by CK through the use of Randstad's services to serve as Controller on a temporary basis.

22. Answering mislabeled Paragraph 19 of Plaintiff's Complaint, this
answering Defendant Randstad is without sufficient information upon which to base a

DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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1 belief as to the truth or falsity of the allegations contained therein and upon said ground
2 denies the same.

3 23. Answering mislabeled Paragraph 20 of Plaintiff's Complaint, this
4 answering Defendant Randstad denies the allegations contained therein, except admits
5 that, per the terms and conditions outlined in the Agreement, Randstad conducted its
6 own reference checks on Frontiera and took reasonable steps to verify the accuracy of
7 such, and avers that it performed the contracted services described in the Agreement.

8 24. Answering mislabeled Paragraph 21 of Plaintiff's Complaint, this
9 answering Defendant Randstad denies the allegations contained herein, and avers that
10 Randstad performed the contracted services described in the Agreement.

11 25. Mislabeled Paragraph 22 of Plaintiff's Complaint calls for a legal
12 conclusion to which no answer is required, and to the extent it is, this answering
13 Defendant Randstad denies the same.

14 26. Answering mislabeled Paragraph 23 of Plaintiff's Complaint, this
15 answering Defendant Randstad is without sufficient information upon which to base a
16 belief as to whether the retention of Black & LoBello's services were necessary, and
17 upon said ground denies the same, and every other assertion set forth therein.

SECOND CLAIM FOR RELIEF

(Breach of Covenant of Good Faith & Fair Dealing)

(Randstad)

21 27. Answering mislabeled Paragraph 24 of Plaintiff's Complaint, this
22 answering Defendant Randstad repeats and re-alleges his answers as set forth in
23 Paragraphs 1 through 26 above with the same force and effect as though fully set forth
24 herein.

25 28. Mislabeled Paragraph 25 of Plaintiff's Complaint calls for a legal
26 conclusion to which no answer is required, and to the extent it is, this answering

27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
28 COUNTERCLAIMS AGAINST DEFENDANT-IN-COUNTERCLAIM COUNT'S KUSTOMS, LLC, AND
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1 Defendant Randstad denies the same.

2 29. Answering mislabeled Paragraph 26 of Plaintiff's Complaint, this
3 answering Defendant Randstad denies the allegations contained therein.

4 30. Answering mislabeled Paragraph 27 of Plaintiff's Complaint, this
5 answering Defendant Randstad denies the allegations contained therein.

6 31. Mislabeled Paragraph 28 of Plaintiff's Complaint calls for a legal
7 conclusion to which no answer is required, and to the extent it is, this answering
8 Defendant Randstad denies the same.

9 32. Answering mislabeled Paragraph 29 of Plaintiff's Complaint, this
10 answering Defendant Randstad is without sufficient information upon which to base a
11 belief as to whether the retention of Black & LoBello's services were necessary, and
12 upon said ground denies the same, and every other assertion set forth therein.

13 **THIRD CLAIM FOR RELIEF**

14 (Fraud)

15 (Frontiera and Randstad)

16 33. Answering mislabeled Paragraph 30 of Plaintiff's Complaint, this
17 answering Defendant Randstad repeats and re-alleges his answers as set forth in
18 Paragraphs 1 through 32 above with the same force and effect as though fully set forth
19 herein.

20 34. Answering mislabeled Paragraph 31 of Plaintiff's Complaint, this
21 answering Defendant Randstad denies the allegations contained therein, and avers that
22 on or around June 17, 2013, Frontiera was hired by CK through the use of Randstad's
23 services to serve as Controller on a temporary basis, and further avers that it performed
24 the contracted services described in the Agreement.

25 35. Answering mislabeled Paragraph 32 of Plaintiff's Complaint, this
26 answering Defendant Randstad denies the allegations contained therein, except admits

27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
28 COUNTERCLAIMS AGAINST DEFENDANT-IN-COUNTERCLAIM COUNT'S KUSTOMS, LLC, AND
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1 that it conducted reference checks on Frontiera as referenced in the Agreement.

2 36. Answering mislabeled Paragraph 33 of Plaintiff's Complaint, this
3 answering Defendant Randstad is without sufficient information upon which to base a
4 belief as to the truth or falsity of the allegations contained therein and upon said ground
5 denies the same.

6 37. Answering mislabeled Paragraph 34 of Plaintiff's Complaint, this
7 answering Defendant Randstad is without sufficient information upon which to base a
8 belief as to the truth or falsity of the allegations contained therein and upon said ground
9 denies the same.

10 38. Answering mislabeled Paragraph 35 of Plaintiff's Complaint, this
11 answering Defendant Randstad denies the allegations contained therein.

12 39. Answering mislabeled Paragraph 36 of Plaintiff's Complaint, this
13 answering Defendant Randstad is without sufficient information upon which to base a
14 belief as to the truth or falsity of the allegations contained therein and upon said ground
15 denies the same.

16 40. Answering mislabeled Paragraph 37 of Plaintiff's Complaint, this
17 answering Defendant Randstad is without sufficient information upon which to base a
18 belief as to the truth or falsity of the allegations contained therein and upon said ground
19 denies the same.

20 41. Mislabeled Paragraph 38 of Plaintiff's Complaint calls for a legal
21 conclusion to which no answer is required, and to the extent it is, this answering
22 Defendant Randstad denies the same.

23 42. Mislabeled Paragraph 39 of Plaintiff's Complaint calls for a legal
24 conclusion to which no answer is required, and to the extent it is, this answering
25 Defendant Randstad denies the same.

26 43. Answering mislabeled Paragraph 40 of Plaintiff's Complaint, this

27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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1 answering Defendant Randstad is without sufficient information upon which to base a
2 belief as to whether the retention of Black & LoBello's services were necessary, and
3 upon said ground denies the same, and every other assertion set forth therein.

4 **FOURTH CLAIM FOR RELIEF**

5 **(Negligent Misrepresentation)**

6 **(Randstad)**

7 44. Answering mislabeled Paragraph 41 of Plaintiff's Complaint, this
8 answering Defendant Randstad repeats and re-alleges his answers as set forth in
9 Paragraphs 1 through 43 above with the same force and effect as though fully set forth
10 herein.

11 45. Mislabeled Paragraph 42 of Plaintiff's Complaint calls for a legal
12 conclusion to which no answer is required, and to the extent that it is, this answering
13 Defendant Randstad denies the same.

14 46. Answering mislabeled Paragraph 43 of Plaintiff's Complaint, this
15 answering Defendant Randstad is without sufficient information upon which to base a
16 belief as to the truth or falsity of the allegations contained therein and upon said ground
17 denies the same.

18 47. Mislabeled Paragraph 44 of Plaintiff's Complaint calls for a legal
19 conclusion to which no answer is required, and to the extent it is, this answering
20 Defendant Randstad denies the same.

21 48. Answering mislabeled Paragraph 45 of Plaintiff's Complaint, this
22 answering Defendant Randstad is without sufficient information upon which to base a
23 belief as to whether the retention of Black & LoBello's services were necessary, and
24 upon said ground denies the same, and every other assertion set forth therein.

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26
27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
28 COUNTERCLAIMS AGAINST DEFENDANT-IN-COUNTERCLAIM COUNT'S KUSTOMS, LLC, AND
CROSS-CLAIMS AGAINST CROSS-DEFENDANT JOSEPH FRONTIERA AND
REQUEST FOR DESIGNATION AS BUSINESS COURT MATTER

1 **FIFTH CLAIM FOR RELIEF**

2 (Unjust Enrichment)

3 (Frontiera and Randstad)

4 49. Answering mislabeled Paragraph 46 of Plaintiff's Complaint, this
5 answering Defendant Randstad repeats and re-alleges his answers as set forth in
6 Paragraphs 1 through 48 above with the same force and effect as though fully set forth
7 herein.

8 50. Answering mislabeled Paragraph 47 of Plaintiff's Complaint, this
9 answering Defendant Randstad denies the allegations contained therein.

10 51. Answering mislabeled Paragraph 48 of Plaintiff's Complaint, this
11 answering Defendant Randstad is without sufficient information upon which to base a
12 belief as to the truth or falsity of the allegations contained therein and upon said ground
13 denies the same.

14 52. Mislabeled Paragraph 49 of Plaintiff's Complaint calls for a legal
15 conclusion to which no answer is required, and to the extent it is, this answering
16 Defendant Randstad denies the same.

17 53. Mislabeled Paragraph 50 of Plaintiff's Complaint calls for a legal
18 conclusion to which no answer is required, and to the extent it is, this answering
19 Defendant Randstad denies the same.

20 54. Answering mislabeled Paragraph 51 of Plaintiff's Complaint, this
21 answering Defendant Randstad is without sufficient information upon which to base a
22 belief as to whether the retention of Black & LoBello's services were necessary, and
23 upon said ground denies the same, and every other assertion set forth therein.

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DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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SIXTH CLAIM FOR RELIEF
(Conversion/Constructive Trust)
(Frontiera)

55. Answering mislabeled Paragraph 52 of Plaintiff's Complaint, this answering Defendant Randstad repeats and re-alleges his answers as set forth in Paragraphs 1 through 54 above with the same force and effect as though fully set forth herein.

8 56. Answering mislabeled Paragraph 53 of Plaintiff's Complaint, this
9 answering Defendant Randstad is without sufficient information upon which to base a
10 belief as to the truth or falsity of the allegations contained therein and upon said ground
11 denies the same.

12 57. Answering mislabeled Paragraph 54 of Plaintiff's Complaint, this
13 answering Defendant Randstad is without sufficient information upon which to base a
14 belief as to the truth or falsity of the allegations contained therein and upon said ground
15 denies the same.

16 58. Mislabeled Paragraph 55 of Plaintiff's Complaint calls for a legal
17 conclusion to which no answer is required, and to the extent it is, this answering
18 Defendant Randstad denies the same.

19 59. Answering mislabeled Paragraph 56 of Plaintiff's Complaint, this
20 answering Defendant Randstad is without sufficient information upon which to base a
21 belief as to whether the retention of Black & LoBello's services were necessary, and
22 upon said ground denies the same, and every other assertion set forth therein.

SEVENTH CLAIM FOR RELIEF
(Embezzlement - Civil Theft)
(Frontiera)

60 Answering mislabeled Paragraph 57 of Plaintiff's Complaint, this

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1 answering Defendant Randstad repeats and re-alleges his answers as set forth in
2 Paragraphs 1 through 59 above with the same force and effect as though fully set forth
3 herein.

4 61. Answering mislabeled Paragraph 58 of Plaintiff's Complaint, this
5 answering Defendant Randstad is without sufficient information upon which to base a
6 belief as to the truth or falsity of the allegations contained therein and upon said ground
7 denies the same.

8 62. Answering mislabeled Paragraph 59 of Plaintiff's Complaint, this
9 answering Defendant Randstad is without sufficient information upon which to base a
10 belief as to the truth or falsity of the allegations contained therein and upon said ground
11 denies the same.

12 63. Mislabeled Paragraph 60 of Plaintiff's Complaint calls for a legal
13 conclusion to which no answer is required, and to the extent it is, this answering
14 Defendant Randstad denies the same.

15 64. Mislabeled Paragraph 61 of Plaintiff's Complaint calls for a legal
16 conclusion to which no answer is required, and to the extent it is, this answering
17 Defendant Randstad denies the same.

18 65. Answering mislabeled Paragraph 62 of Plaintiff's Complaint, this
19 answering Defendant Randstad is without sufficient information upon which to base a
20 belief as to whether the retention of Black & LoBello's services were necessary, and
21 upon said ground denies the same, and every other assertion set forth therein.

22 **EIGHTH CLAIM FOR RELIEF**

23 (Negligent Supervision)

24 (Randstad)

25 66. Answering mislabeled Paragraph 63 of Plaintiff's Complaint, this
26 answering Defendant Randstad repeats and re-alleges his answers as set forth in

27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
28 COUNTERCLAIMS AGAINST DEFENDANT-IN-COUNTERCLAIM COUNT'S KUSTOMS, LLC, AND
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1 Paragraphs 1 through 65 above with the same force and effect as though fully set forth
2 herein.

3 67. Answering mislabeled Paragraph 64 of Plaintiff's Complaint, this
4 answering Defendant Randstad denies the allegations contained therein.

5 68. Answering mislabeled Paragraph 65 of Plaintiff's Complaint, this
6 answering Defendant Randstad denies the allegations contained therein, and avers that
7 it performed the contracted services described in the Agreement.

8 69. Mislabeled Paragraph 66 of Plaintiff's Complaint calls for a legal
9 conclusion to which no answer is required, and to the extent it is, this answering
10 Defendant Randstad denies the same.

11 70. Answering mislabeled Paragraph 67 of Plaintiff's Complaint, this
12 answering Defendant Randstad is without sufficient information upon which to base a
13 belief as to whether the retention of Black & LoBello's services were necessary, and
14 upon said ground denies the same, and every other assertion set forth therein.

15 71. Mislabeled Paragraph 68 of Plaintiff's Complaint calls for a legal
16 conclusion to which no answer is required, and to the extent it is, this answering
17 Defendant Randstad denies the same.

18 **CONCLUDING ANSWER TO ALL ALLEGATIONS**

19 All allegations not specifically addressed above due to the nature of the language
20 and construction of the allegations, or for any other reason, are specifically denied.

21 **AFFIRMATIVE DEFENSES**

22 **FIRST:** Defendant alleges that the allegations contained in Plaintiff's
23 Complaint fail to state causes of action against Defendant upon which relief can be
24 granted.

25 **SECOND:** Defendant alleges that Plaintiff's allegations are barred by
26 the doctrine of laches.

27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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1 THIRD: Defendant alleges that Plaintiff's allegations are barred
2 because Plaintiff had knowingly and voluntarily assumed any risks at issue.

3 FOURTH: It has been necessary for Defendant Randstad to employ the
4 services of Mills & Associates and Seyfarth Shaw LLP to defend this action, and a
5 reasonable sum should be allowed Defendant as and for attorney's fees, together with
6 costs expended in this action.

7 FIFTH: Defendant alleges that the incidents alleged in the
8 Complaint, and the alleged damages, if any, to Plaintiff were proximately caused or
9 contributed to by Plaintiff's own negligence and such negligence was greater than any
10 of the Defendant's negligence.

11 SIXTH: Defendant alleges that Plaintiff did not exercise ordinary
12 care, caution, or prudence over the direction, supervision or control of Defendant
13 Frontier to avoid the alleged harm it suffered, and the alleged harm, if any, complained
14 of was directly and proximately contributed to and caused by fault, carelessness, and
15 negligence of Plaintiff.

16 SEVENTH: Defendant alleges that Plaintiff has failed, in whole or in part,
17 to mitigate its alleged damages.

18 EIGHTH: Pursuant to NRCP 11, as amended, all possible affirmative
19 defenses may not have been alleged herein insofar as sufficient facts were not available
20 after reasonable inquiry upon the filing of Defendant's Answer, and therefore, this
21 answering Defendant reserves the right to amend its Answer to allege additional
22 Affirmative Defenses if subsequent investigation so warrants.

23 NINTH: Defendant alleges that Plaintiff breached its Agreement with
24 Defendant, and that breach is the cause of the alleged harm to the Plaintiff.

25 TENTH: Defendant alleges that the alleged acts of Frontier are an
26 intervening and superseding cause of any alleged harm to the Plaintiff.

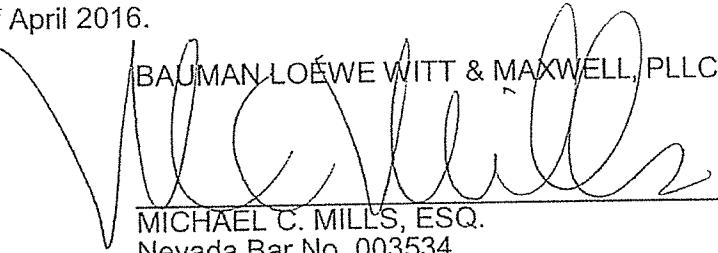
27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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1 ELEVENTH: Defendant alleges that at diverse dates and times, Frontiera
2 was an employee of CK, and Randstad cannot be held liable for CK's or Frontiera's
3 acts, omissions, negligence or intentional acts.

4 WHEREFORE, this answering Defendant Randstad hereby pray for judgment as
5 follows:

- 6 1. That Plaintiff takes nothing by reason of the Complaint on file herein;
- 7 2. That this answering Defendant be awarded reasonable attorney's fees and
8 costs for the defense of this matter;
- 9 3. For such other and further relief as the Court deems just and proper.

10 DATED this 18th day of April 2016.

11 
12 BAUMAN LOEWE WITT & MAXWELL, PLLC
13 MICHAEL C. MILLS, ESQ.
14 Nevada Bar No. 003534
15 3650 N. Rancho Dr., Ste. 114
 Las Vegas, NV 89130

16 ERIC R. MCDONOUGH, ESQ.
17 (Pro Hac Vice Pending)
18 AMY A. ABELOFF, ESQ.
19 (Pro Hac Vice Pending)
20 SEYFARTH SHAW LLP
21 2029 Century Park East, Ste. 3500
22 Los Angeles, California 90067
23 Telephone No.: 310-277-7200
24 Fax No.: 310-201-5219

25 Attorneys for Defendant/Plaintiff-in-
26 Counterclaim/Cross-Claimant
27 Randstad Professionals US, LP

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29 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
30 COUNTERCLAIMS AGAINST DEFENDANT-IN-COUNTERCLAIM COUNT'S KUSTOMS, LLC, AND
31 CROSS-CLAIMS AGAINST CROSS-DEFENDANT JOSEPH FRONTIERA AND
32 REQUEST FOR DESIGNATION AS BUSINESS COURT MATTER

1 DEFENDANT RANDSTAD'S COUNTERCLAIMS AGAINST DEFENDANT-IN-
2 COUNTERCLAIM COUNT'S KUSTOMS, LLC AND
3 CROSS-CLAIMS AGAINST CROSS-DEFENDANT FRONTIERA

4 COMES NOW, Plaintiff-in-Counterclaim/Cross-Claimaint, Randstad
5 Professionals US, LP ("Defendant" or "Randstad") a Delaware limited partnership, by
6 and through its attorneys of record, Michael C. Mills, Esq. of Bauman Loewe Witt &
7 Maxwell, PLLC, and Eric R. McDonough, Esq. and Amy A. Abeloff, Esq. of Seyfarth
8 Shaw LLP (pro hac vice pending), and hereby files these Counterclaims against the
9 above-named Defendant-in-Counterclaim, and Cross-Claims against the above-
10 named Cross-Defendant, and alleges as follows:

11 COUNTERCLAIM AGAINST COUNTS KUSTOMS

12 THE PARTIES

13 1. Plaintiff-in-Counterclaim/Plaintiff-in-Cross-Claim Randstad Professionals
14 US, LP ("Randstad") is a limited partnership organized under the laws of the State of
15 Delaware.

16 2. Defendant-in-Counterclaim Count's Kustoms, LLC ("CK") is a Nevada
17 limited liability corporation registered to do business in the State of Nevada. See
18 Complaint ¶ 1.

19 GENERAL FACTUAL ALLEGATIONS

20 3. On or around June 17, 2013, co-Defendant Frontiera was hired by Theo
21 Spyer ("Spyer"), acting on behalf of CK in such hiring capacity.

22 4. Spyer/CK engaged Randstad's services because CK was searching for a
23 Controller and a Staff Accountant.

24 5. As part of its engagement with Spyer/CK, Randstad provided Spyer/CK
25 with its "Randstad Finance & Accounting Service Agreement" (the "Agreement"), which

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27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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1 outlined Randstad's cost of services, definitions, payment terms, guarantees, and client
2 responsibility. See The Agreement, attached as Exhibit A hereto.

3 6. Frontiera and CK signed the Agreement in connection with Randstad's
4 providing of temporary staffing services to CK.

5 7. In the Agreement, CK was referred to as the "Client," Randstad was
6 referred to as "Randstad F&A," and Frontiera was referred to as the "Candidate."

7 8. By signing the Agreement, CK bound itself to the terms of the Agreement.

8 9. The terms of the Agreement included provisions explicating "Client
9 Responsibility." See Exhibit A.

10 10. The terms of the Agreement stated that as a client of Randstad, CK
11 agreed that all services provided by Frontiera would be performed under CK's exclusive
12 and qualified direction, supervision, and control. See Exhibit A.

13 11. The terms of the Agreement stated that Randstad would have no
14 responsibility for supervising or directing the work of a candidate, like Frontiera in the
15 case at bar. See Exhibit A.

16 12. The terms of the Agreement stated that CK agreed that it would not allow
17 candidates, like Frontiera in the case at bar, to handle cash or credit card
18 transactions, have authority to transfer funds, make payments or disburse funds,
19 have access to check signing equipment or other valuable property, take
20 responsibility for tax deadlines, have access to trade secret information, have a key
21 to the office, take work, documents or equipment (including laptops) off-site, operate
22 client's leased or owned vehicles, travel without prior written permission from Randstad
23 or perform any other tasks or have any responsibility inconsistent with sound internal
24 control practices. See Exhibit A.

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27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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1 13. The terms of the Agreement stated that candidates, like Frontiera in the
2 case at bar, were not allowed to sign any document on behalf of Randstad. See Exhibit
3 A.

4 14. The terms of the Agreement stated that CK agreed that if it suspected or
5 discovered any indication of impropriety by Frontiera, that CK would notify Randstad
6 immediately and in any case, no later than ten (10) days from discovery. See Exhibit A.

7 15. The terms of the Agreement also specified that Randstad conducts
8 reference checks for its own purposes. See Exhibit A.

9 16. The terms of the Agreement stated that Randstad would make reasonable
10 inquiries to verify the accuracy of information forwarded on a candidate, like Frontiera in
11 the case at bar, but did not guarantee the accuracy of such information. See Exhibit A.

12 17. The terms of the Agreement further stated that in evaluating candidates
13 for direct hire, CK should thoroughly check Randstad's candidates with the same rigor
14 as if it were hiring candidates directly, as Randstad "does not conduct background,
15 criminal or credit checks unless the client requests this service in writing, and
16 pays the fees for such outside services." See Exhibit A, emphasis added.

17 18. Never did CK request that Randstad conduct background, criminal or
18 credit checks on Frontiera in writing, nor did CK pay any fee(s) for such outside services
19 as related to Frontiera.

20 19. The terms of the Agreement further stated that CK would "defend and
21 indemnify Randstad, its parent, subsidiaries, directors, officers, agents,
22 representatives and employees for all claims, losses, and liability (including
23 reasonable attorneys' fees) caused by CK's breach of the Agreement, its failure to
24 discharge its duties and responsibilities set forth under the Client Responsibility
25 Section [therein] or in the negligence, gross negligence or willful misconduct of

26
27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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1 [itself, CK], its officers, employees or authorized agents in the discharge of those
2 duties and responsibilities." See Exhibit A, emphasis added.

3 20. The Agreement in whole was valid, enforceable, and entered into between
4 Randstad and CK for work to be performed by Frontiera.

5 21. Randstad performed all conditions, covenants, and promises required by it
6 to be performed in accordance with the Agreement, including the performance of
7 reference checks for its own purposes, and verification of the accuracy of such
8 information.

9 **FIRST COUNTERCLAIM**

10 **(Breach of Contract - Client Responsibility)**

11 22. Plaintiff-in-Counterclaim Randstad repeats and re-alleges its answers as
12 set forth in Paragraphs 1 through 21 above with the same force and effect as though
13 fully set forth herein.

14 23. In its Complaint, CK alleges that "on or about June 6, 2013," Frontiera was
15 hired by CK to "serve as the General Manager to assist in the day to day operations,
16 including but not limited to... accounting...[and] collections." See Complaint, ¶ 5.

17 24. In its Complaint, CK alleges that "Frontiera was added as a signer to the
18 accounts at Count's Kustoms." See Complaint, ¶ 11.

19 25. Further in its Complaint, CK concedes that Frontiera had access to and
20 power to disperse CK's monies, as CK alleges "Frontiera... failed to cause fourth
21 quarter 2013 payroll taxes to be timely paid;" "Frontiera also failed to pay the
22 Nevada State Department of Taxation timely;" "Frontiera also failed to pay the Live
23 Entertainment Tax;" and "Frontiera also failed to pay the Sales & Use tax...". See
24 Complaint ¶¶ 15, 16, 17, 18, 19.

25 26. Day to day operations, namely, accounting and collections, being a signer
26 to accounts at a business, and being charged with paying payroll taxes involves, in part,

27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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1 the handling of cash or credit card transactions, having authority to transfer
2 funds, making payments or disbursing funds, having access to check signing
3 equipment or other valuable property, and taking responsibility for tax deadlines.

4 See Exhibit A.

5 27. The Agreement expressly prohibited CK from allowing Frontiera to handle
6 cash or credit card transactions, have authority to transfer funds, make payments or
7 disburse funds, have access to check signing equipment or other valuable property, and
8 take responsibility for tax deadlines while Frontiera was employed by CK in a temporary
9 capacity. See Exhibit A.

10 28. CK breached its Agreement with Randstad by allowing Frontiera to handle
11 cash or credit card transactions, have authority to transfer funds, make payments or
12 disburse funds, have access to check signing equipment or other valuable property, and
13 take responsibility for tax deadlines.

14 29. The Agreement required CK to supervise, direct and control Frontiera
15 exclusively. See Exhibit A.

16 30. CK breached the Agreement by failing to supervise, direct and control
17 Frontiera, and such breach was the cause of any alleged harm to CK.

18 31. The Agreement required CK to have all necessary internal accounting
19 controls in place. See Exhibit A.

20 32. CK breached the Agreement by failing to have all necessary internal
21 accounting controls in place, and such breach was the cause of any alleged harm to
22 CK.

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DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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SECOND COUNTERCLAIM

(Indemnity)

3 33. Plaintiff-in-Counterclaim Randstad repeats and re-alleges its answers as
4 set forth in Paragraphs 1 through 32 above with the same force and effect as though
5 fully set forth herein.

6 34. CK breached the Client Responsibility portion of the Agreement by
7 allowing Frontiera certain powers otherwise prohibited under the Agreement.

8 35. CK was negligent in its direction, supervision and control of Frontiera, and
9 its failure to have internal accounting controls in place.

10 36. Because CK breached the Client Responsibility portion of the Agreement,
11 CK is required to defend and indemnify Randstad for all claims, losses, and liability
12 (including reasonable attorneys' fees) caused by its breach.

13 37. In the alternative, CK is required to defend and indemnify Randstad for all
14 claims, losses, and liability (including reasonable attorneys' fees) caused by its
15 negligence in the discharge of its duties and responsibilities as outlined in the
16 Agreement (i.e., the supervision, direction and control of Frontiera).

THIRD COUNTERCLAIM

(Negligent Supervision, Direction and Control)

19 38. Plaintiff-in-Counterclaim Randstad repeats and re-alleges its answers as
20 set forth in Paragraphs 1 through 37 above with the same force and effect as though
21 fully set forth herein.

22 39. Whether Randstad was required to perform background, criminal or credit
23 checks on Frontiera depended upon CK's provision of a written request of such services
24 to Randstad and payment of additional fees for such services.

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1 40. CK did not provide Randstad with a written request for the performance of
2 background, criminal or credit check services, nor did CK pay the requisite fee for such
3 services.

4 41. Under the Agreement, CK was responsible for checking Randstad
5 candidates "with the same rigor as if [CK] were hiring [a candidate] directly."

6 42. Upon information and belief, CK hired Frontiera as a permanent employee
7 of CK on or around November 2013, and at no time did CK thoroughly check Frontiera
8 and his background.

9 43. CK is liable for any harm caused to it because it negligently supervised,
10 directed and/or controlled Frontiera.

11 WHEREFORE, this Plaintiff-in-Counterclaim Randstad hereby prays for judgment
12 as follows:

13 1. That Defendant-in-Counterclaim takes nothing by reason of the Complaint
14 on file herein:

15 2. That this Plaintiff-in-Counterclaim be awarded reasonable attorney's fees
16 and costs for the defense of this matter;

17 3. For such other and further relief as the Court deems just and proper.

18 DATED this 18th day of April 2016.

BAUMAN LOEWE WITT & MAXWELL, PLLC

MICHAEL C. MILLS, ESQ.
Nevada Bar No. 003534
3650 N. Rancho Dr., Ste. 114
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AMY A. ABELOFF, ESQ.
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2029 Century Park East, Ste. 3

DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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1 Los Angeles, California 90067
2 Telephone No.: 310-277-7200
3 Fax No.: 310-201-5219

4 Attorneys for Defendant/Plaintiff-in-
5 Counterclaim/Cross-Claimant
6 Randstad Professionals US, LP
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DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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CROSS-CLAIM AGAINST FRONTIERA

1. Cross-Defendant Joseph Frontiera at the time of the issues in question herein, resided in the State of Nevada.

2. It has become necessary for Cross-Claimant Randstad ("Randstad") to retain the services of an attorney to prosecute this Cross-Claim and, therefore, Randstad should be awarded attorney's fees and costs of suit that are incurred as a result of this litigation.

CONTRIBUTION & INDEMNITY

9 3. Randstad alleges that in the event it is found to be liable to Plaintiff
10 Count's Kustom's, LLC ("CK") or to any other party for any damages, or if payment is
11 made by Randstad to CK or any other party as a result of the incidents or occurrences
12 described in CK's Complaint, then Randstad's liability or payments is based upon the
13 acts and/or omissions, including, without limitation, alleged negligence, breach of
14 warranties (express and/or implied), breach of contract, and breach of fiduciary duties,
15 of CK and/or Frontiera, and therefore Randstad is entitled to contribution and indemnity
16 to the fullest extent permitted by law from Frontiera.

17 4. That is has become necessary for Randstad to retain the services of an
18 attorney to prosecute this Cross-Claim and, therefore, said Randstad should be
19 awarded attorney's fees and costs of suit that are incurred as a result of this litigation.

WHEREFORE, Cross-Claimant Randstad, prays as follows:

21 1. For judgment against Cross-Defendant Frontiera in amounts to be
22 determined at the time of trial;
23 2. For costs, disbursements and attorneys' fees; and

24 //
25 //
26 //

27 DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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REQUEST FOR DESIGNATION AS BUSINESS COURT MATTER

3 For such other and further relief as the Court deems just and proper.

DATED this 18th day of April 2016.

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Nevada Bar No. 003534
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Attorneys for Defendant/Plaintiff-in-Counterclaim/Cross-Claimant
Randstad Professionals US, LP

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and Administrative Order 14-2 of the Eighth Judicial District Court, I hereby certify that I am an employee of BAUMAN LOEWE WITT & MAXWELL, PLLC, and that on the 18th day of April, 2016, I caused a true and correct copy of the foregoing document **DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT, COUNTERCLAIMS AGAINST PLAINTIFF, AND CROSS-CLAIMS AGAINST DEFENDANT JOSEPH FRONTIERA** to be served as follows:

- VIA U.S. POSTAL MAIL: by placing a true and correct copy thereof enclosed in a sealed envelope with the postage thereon fully prepaid, addressed as indicated on the attached service list in the United States Mail.
- VIA FACSIMILE: by causing a true and correct copy thereof to be faxed on this date to the addressee(s) at the attached facsimile numbers set forth in the service list.
- VIA E-SERVICE: by causing a true and correct copy thereof to be electronically served in compliance with the Administrative Order 14-2 and Nevada Electronic Filing and Conversion Rules.

SERVICE LIST

Steven Mack, Esq.
Black & LoBello
10777 West Twain Avenue, Third Fl.
Las Vegas, Nevada 89135
Phone: 702-869-8801
Fax: 702-869-2669
Email: smack@blacklobellolaw.com
Attorney for Plaintiff,
Count's Kustoms, LLC

Karen Reynolds
An Employee of BAUMAN LOEWE WITT
& MAXWELL, PLLC

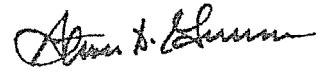
DEFENDANT RANDSTAD PROFESSIONALS US, LP's ANSWER TO PLAINTIFF'S COMPLAINT,
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EXHIBIT A

EXHIBIT "C"

EXHIBIT "C"

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
* * *

COUNT'S KUSTOMS LLC, PLAINTIFF(S)

Case No.: A-16-733821-B

VS.

DEPARTMENT 13

JOSEPH FRONTIERA, DEFENDANT(S)

NOTICE OF DEPARTMENT REASSIGNMENT

NOTICE IS HEREBY GIVEN that the above-entitled action has been randomly reassigned to
Judge Mark R. Denton.

This reassignment is due to: Business Court Request
(Please confirm your registration for e-service as this change may require you to re-register).

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE RESET BY THE
NEW DEPARTMENT. PLEASE INCLUDE THE NEW DEPARTMENT NUMBER ON ALL FUTURE
FILINGS.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Ann Thomson

Ann Thomson,
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that this 18th day of April, 2016

The foregoing Notice of Department Reassignment was electronically served to all registered
parties for case number A-16-733821-B.

/s/ Ann Thomson

Ann Thomson
Deputy Clerk of the Court

CIVIL COVER SHEET

NSJS 44 (Rev. 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| I. (a) PLAINTIFFS Count's Kustoms, LLC, a Nevada Corporation | | DEFENDANTS Joseph Frontiera, an individual, Randstad Professionals US, LP a Delaware limited partnership, et al | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| (b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES) | | County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| (c) Attorney's (Firm Name, Address, and Telephone Number) Steven Mack, Esq., Black & loBello, 10777 W. Twain Ave. Third Fl, Las Vegas, NV 89135 Phone: 702-869-2669 | | Attorneys (If Known) Michael C. Mills, Esq., Bauman Loewe Witt & Maxwell, PLLC., 3650 N. Rancho Drive, #114, Las Vegas, Nevada 89130 Phone _____ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| II. BASIS OF JURISDICTION (Place an "X" in One Box Only) | | III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) | Citizen of This State <input type="checkbox"/> PTF <input type="checkbox"/> DEF | Incorporated or Principal Place of Business In This State <input type="checkbox"/> PTF <input type="checkbox"/> DEF | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | Citizen of Another State <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| IV. NATURE OF SUIT (Place an "X" in One Box Only) | | FORFEITURE/PENALTY | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <tr> <td><input type="checkbox"/> 110 Insurance</td> <td>PERSONAL INJURY</td> <td>PERSONAL INJURY</td> </tr> <tr> <td><input type="checkbox"/> 120 Marine</td> <td><input type="checkbox"/> 310 Airplane</td> <td><input type="checkbox"/> 362 Personal Injury - Med. Malpractice</td> </tr> <tr> <td><input type="checkbox"/> 130 Miller Act</td> <td><input type="checkbox"/> 315 Airplane Product Liability</td> <td><input type="checkbox"/> 365 Personal Injury - Product Liability</td> </tr> <tr> <td><input type="checkbox"/> 140 Negotiable Instrument</td> <td><input type="checkbox"/> 320 Assault, Libel & Slander</td> <td><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</td> </tr> <tr> <td><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</td> <td><input type="checkbox"/> 330 Federal Employers' Liability</td> <td><input type="checkbox"/> 370 Other Fraud</td> </tr> <tr> <td><input type="checkbox"/> 151 Medicare Act</td> <td><input type="checkbox"/> 340 Marine</td> <td><input type="checkbox"/> 371 Truth in Lending</td> </tr> <tr> <td><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)</td> <td><input type="checkbox"/> 345 Marine Product Liability</td> <td><input type="checkbox"/> 380 Other Personal Property Damage</td> </tr> <tr> <td><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</td> <td><input type="checkbox"/> 350 Motor Vehicle</td> <td><input type="checkbox"/> 385 Property Damage Product Liability</td> </tr> <tr> <td><input type="checkbox"/> 160 Stockholders' Suits</td> <td><input type="checkbox"/> 355 Motor Vehicle Product Liability</td> <td><input type="checkbox"/> 360 Other Personal Injury</td> </tr> <tr> <td><input checked="" type="checkbox"/> 190 Other Contract</td> <td><input type="checkbox"/> 441 Voting</td> <td><input type="checkbox"/> 510 Motions to Vacate Sentence</td> </tr> <tr> <td><input type="checkbox"/> 195 Contract Product Liability</td> <td><input type="checkbox"/> 442 Employment</td> <td>HABEAS CORPUS:</td> </tr> <tr> <td><input type="checkbox"/> 196 Franchise</td> <td><input type="checkbox"/> 443 Housing/ Accommodations</td> <td><input type="checkbox"/> 530 General</td> </tr> <tr> <td colspan="2">REAL PROPERTY</td> <td><input type="checkbox"/> 444 Welfare</td> <td><input type="checkbox"/> 535 Death Penalty</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 445 Amer. w/Disabilities - Employment</td> <td><input type="checkbox"/> 540 Mandamus & Other</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 446 Amer. w/Disabilities - Other</td> <td><input type="checkbox"/> 550 Civil Rights</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 440 Other Civil Rights</td> <td><input type="checkbox"/> 555 Prison Condition</td> </tr> </table> | | <input type="checkbox"/> 110 Insurance | PERSONAL INJURY | PERSONAL INJURY | <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 362 Personal Injury - Med. 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Veterans) | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 380 Other Personal Property Damage | <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | <input type="checkbox"/> 360 Other Personal Injury | <input checked="" type="checkbox"/> 190 Other Contract | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 510 Motions to Vacate Sentence | <input type="checkbox"/> 195 Contract Product Liability | <input type="checkbox"/> 442 Employment | HABEAS CORPUS: | <input type="checkbox"/> 196 Franchise | <input type="checkbox"/> 443 Housing/ Accommodations | <input type="checkbox"/> 530 General | REAL PROPERTY | | <input type="checkbox"/> 444 Welfare | <input type="checkbox"/> 535 Death Penalty | | | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | <input type="checkbox"/> 540 Mandamus & Other | | | <input type="checkbox"/> 446 Amer. w/Disabilities - Other | <input type="checkbox"/> 550 Civil Rights | | | <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 555 Prison Condition | <table border="1"> <tr> <td><input type="checkbox"/> 420 Agriculture</td> <td><input type="checkbox"/> 422 Appeal 28 USC 158</td> <td><input type="checkbox"/> 400 State Reapportionment</td> </tr> <tr> <td><input type="checkbox"/> 620 Other Food & Drug</td> <td><input type="checkbox"/> 423 Withdrawal 28 USC 157</td> <td><input type="checkbox"/> 410 Antitrust</td> </tr> <tr> <td><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</td> <td><input type="checkbox"/> 425 Racketeer Influence and Corrupt Organizations</td> <td><input type="checkbox"/> 430 Banks and Banking</td> </tr> <tr> <td><input type="checkbox"/> 630 Liquor Laws</td> <td><input type="checkbox"/> 440 R.R. & Truck</td> <td><input type="checkbox"/> 450 Commerce</td> </tr> <tr> <td><input type="checkbox"/> 640 Airline Regs.</td> <td><input type="checkbox"/> 450 Occupational Safety/Health</td> <td><input type="checkbox"/> 460 Deportation</td> </tr> <tr> <td><input type="checkbox"/> 660 Other</td> <td><input type="checkbox"/> 460 Other</td> <td><input type="checkbox"/> 470 Racketeer Influence and Corrupt Organizations</td> </tr> <tr> <td colspan="2">PROPERTY RIGHTS</td> <td><input type="checkbox"/> 480 Consumer Credit</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 490 Cable/Sat TV</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 510 Selective Service</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 850 Securities/Commodities/ Exchange</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 890 Other Statutory Actions</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 891 Agricultural Acts</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 892 Economic Stabilization Act</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 893 Environmental Matters</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 894 Energy Allocation Act</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 895 Freedom of Information Act</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice</td> </tr> <tr> <td colspan="2"></td> <td><input type="checkbox"/> 950 Constitutionality of State Statutes</td> </tr> </table> | | <input type="checkbox"/> 420 Agriculture | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 400 State Reapportionment | <input type="checkbox"/> 620 Other Food & Drug | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 410 Antitrust | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 425 Racketeer Influence and Corrupt Organizations | <input type="checkbox"/> 430 Banks and Banking | <input type="checkbox"/> 630 Liquor Laws | <input type="checkbox"/> 440 R.R. & Truck | <input type="checkbox"/> 450 Commerce | <input type="checkbox"/> 640 Airline Regs. | <input type="checkbox"/> 450 Occupational Safety/Health | <input type="checkbox"/> 460 Deportation | <input type="checkbox"/> 660 Other | <input type="checkbox"/> 460 Other | <input type="checkbox"/> 470 Racketeer Influence and Corrupt Organizations | PROPERTY RIGHTS | | <input type="checkbox"/> 480 Consumer Credit | | | <input type="checkbox"/> 490 Cable/Sat TV | | | <input type="checkbox"/> 510 Selective Service | | | <input type="checkbox"/> 850 Securities/Commodities/ Exchange | | | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 | | | <input type="checkbox"/> 890 Other Statutory Actions | | | <input type="checkbox"/> 891 Agricultural Acts | | | <input type="checkbox"/> 892 Economic Stabilization Act | | | <input type="checkbox"/> 893 Environmental Matters | | | <input type="checkbox"/> 894 Energy Allocation Act | | | <input type="checkbox"/> 895 Freedom of Information Act | | | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice | | | <input type="checkbox"/> 950 Constitutionality of State Statutes |
| <input type="checkbox"/> 110 Insurance | PERSONAL INJURY | PERSONAL INJURY | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 362 Personal Injury - Med. Malpractice | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 365 Personal Injury - Product Liability | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 330 Federal Employers' Liability | <input type="checkbox"/> 370 Other Fraud | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 340 Marine | <input type="checkbox"/> 371 Truth in Lending | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 380 Other Personal Property Damage | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 385 Property Damage Product Liability | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | <input type="checkbox"/> 360 Other Personal Injury | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> 190 Other Contract | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 510 Motions to Vacate Sentence | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 195 Contract Product Liability | <input type="checkbox"/> 442 Employment | HABEAS CORPUS: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 196 Franchise | <input type="checkbox"/> 443 Housing/ Accommodations | <input type="checkbox"/> 530 General | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| REAL PROPERTY | | <input type="checkbox"/> 444 Welfare | <input type="checkbox"/> 535 Death Penalty | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | <input type="checkbox"/> 540 Mandamus & Other | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 446 Amer. w/Disabilities - Other | <input type="checkbox"/> 550 Civil Rights | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 555 Prison Condition | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 420 Agriculture | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 400 State Reapportionment | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 620 Other Food & Drug | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 410 Antitrust | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 425 Racketeer Influence and Corrupt Organizations | <input type="checkbox"/> 430 Banks and Banking | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 630 Liquor Laws | <input type="checkbox"/> 440 R.R. & Truck | <input type="checkbox"/> 450 Commerce | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 640 Airline Regs. | <input type="checkbox"/> 450 Occupational Safety/Health | <input type="checkbox"/> 460 Deportation | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> 660 Other | <input type="checkbox"/> 460 Other | <input type="checkbox"/> 470 Racketeer Influence and Corrupt Organizations | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PROPERTY RIGHTS | | <input type="checkbox"/> 480 Consumer Credit | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 490 Cable/Sat TV | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 510 Selective Service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 850 Securities/Commodities/ Exchange | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 890 Other Statutory Actions | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 891 Agricultural Acts | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 892 Economic Stabilization Act | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 893 Environmental Matters | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 894 Energy Allocation Act | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 895 Freedom of Information Act | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 950 Constitutionality of State Statutes | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| V. ORIGIN (Place an "X" in One Box Only) | | BANKRUPTCY | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | Appeal to District Judge from Magistrate Judgment | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| VI. CAUSE OF ACTION | | Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. Sec. 1441 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | Brief description of cause: Plaintiff alleges Defendants Breach of Contract, Beach of Covenant of Good Faith & Fair Dealings, Fraud, | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| VII. REQUESTED IN COMPLAINT: | | <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 | DEMANDS 75,745.82 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| VIII. RELATED CASE(S) IF ANY | | (See instructions): JUDGE DOCKET NUMBER | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| DATE 04/21/2016 | | SIGNATURE OF ATTORNEY OF RECORD | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

FOR OFFICE USE ONLY

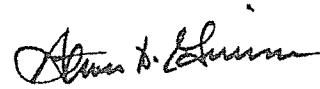
RECEIPT # _____ AMOUNT _____ APPLYING IIP _____ JUDGE _____ MAG. JUDGE _____

EXHIBIT "D"

EXHIBIT "D"

Electronically Filed
04/21/2016 02:23:27 PM

1 MSTR
2 STEVEN MACK, ESQ.
3 Nevada Bar No. 4000
4 **BLACK & LOBELLO**
5 10777 W. Twain Ave., 3rd Fl.
6 Las Vegas, Nevada 89135
7 (702) 869-8801
8 (702) 869-2669 (fax)
9 smack@blacklobellolaw.com
10 Attorneys for Plaintiff/Counterdefendant


CLERK OF THE COURT

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

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|---|---|
| 9 COUNT'S KUSTOMS, LLC, a Nevada 10 corporation, 11 Plaintiff, 12 vs. 13 JOSEPH FRONTIERA, an individual, and 14 RANDSTAD PROFESSIONALS US, LP a 15 Delaware Corporation dba RANDSTAD 16 PROFESSIONALS, DOES I-X and DOE 17 CORPORATIONS XI – XX, inclusive, 18 19 RANDSTAD PROFESSIONALS US, LP, 20 Counterclaimant, 21 vs. 22 COUNT'S KUSTOMS, LLC, 23 Counterdefendant. 24 25 RANDSTAD PROFESSIONALS US, LP, 26 Cross-Claimant, 27 vs. 28 JOSEPH FRONTIERA, Cross-Defendant. | Case No.: A-16-733821 Dept No.: XIII PLAINTIFF/COUNTERDEFENDANT'S MOTION TO STRIKE COUNTERCLAIM OR IN THE ALTERNATIVE, MOTION TO DISMISS D/Hearing: T/Hearing: |
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1 PLAINTIFF/COUNTERDEFENDANT'S MOTION TO STRIKE
2 COUNTERCLAIM OR IN THE ALTERNATIVE, MOTION TO DISMISS

3 Plaintiff/Counter-Defendant, COUNT'S KUSTOMS, LLC, ("Plaintiff" or "CK"), by and
4 through its attorney of record Steven Mack, Esq., of the law firm of Black & LoBello, hereby
5 files this Motion to Strike Counterclaim, or in the alternative, Motion to Dismiss ("Motion").

6 This Motion is made and based on the attached Memorandum of Points and Authorities,
7 the Exhibit attached hereto, the papers and pleadings on file herein, and any oral argument this
8 Court may allow. 

9 DATED this 24 day of April, 2016.

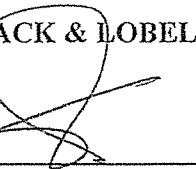
10 
11 BLACK & LOBELLO

12 STEVEN MACK, ESQ.
13 Nevada Bar No. 4000
14 10777 W. Twain Ave., Third Floor
15 Las Vegas, Nevada 89135
16 *Attorneys for Plaintiff*

17 NOTICE OF MOTION

18 Please take Notice that Plaintiff shall bring the foregoing Motion to Strike, or in the
19 alternative, Motion to Dismiss, on for hearing before the above-entitled court on the 23
20 day of MAY, 2016, at the hour of 9:00A a.m./p.m., or as soon thereafter as counsel
21 can be heard. 

22 DATED this 24 day of April, 2016.

23 
24 BLACK & LOBELLO

25 STEVEN MACK, ESQ.
26 Nevada Bar No. 4000
27 10777 W. Twain Ave., Third Floor
28 Las Vegas, Nevada 89135
Attorneys for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This is an action that exists as a result of Randstad's failure to perform basic vetting of a candidate that was provided to the Plaintiff, and that person, Frontiera, committed multiple improper and illegal acts causing substantial damages to Plaintiff.

A complaint was filed on March 22, 2016 and served upon Defendant Randstad on March 28, 2016. Randstad filed an answer, counterclaim and cross claim on April 18, 2016.

The counterclaims filed by Randstad are simply affirmative defenses and should be stricken, dismissed or treated as affirmative defenses, such that the answer is either reformed or refiled.

II. ARGUMENT

Pursuant to NRCP 8(c) Affirmative Defenses:

In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation. (emphasis added)

In this case, all of the claims in the counterclaim filed by Randstad are simply affirmative defenses. The only damages sought by Randstad in its counterclaims is for attorney fees. Unless awarded as special damages under very limited circumstances not applicable here, attorney fees are, by nature, only allowed by Statute, rule or contract.¹ Further, the award of attorney's fees are governed by NRS 18.010, and are sought after the conclusion of the matter on the merits, not as an element of damages.

The Nevada Supreme Court has stated, “[w]e have consistently held that attorney's fees are only available when authorized by a “rule, statute, or contract.” Within the stated criteria, the

¹ See, *Ace Truck v. Kahn*, 103 Nev. 503, 512 n. 4, 746 P.2d 132, 138 (1987).

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1 decision to award attorney's fees is left to the sound discretion of the district court. However, a
 2 district court may abuse its discretion when it clearly disregards guiding legal principles.
 3 Although the counterclaim appears to be a recitation of NRS 18.010(2)(b),⁴ the district court
 4 specifically awarded attorney's fees as damages under [Defendant's] counterclaim. Hence, the
 5 award was not made pursuant to a "rule, statute or contract," and constitutes an abuse of
 6 discretion. In the absence of a contract or rule, a prevailing defendant/counterclaimant may only
 7 recover attorney's fees when the requirements of NRS 18.010(2)(b) are met. To allow attorney's
 8 fees as an element of damages from an ostensible common-law cause of action we have not yet
 9 embraced would swallow the purposes for the attorney's fees statute."²

10 Pursuant to NRCP 12(f) Motion to Strike:

11 Upon motion made by a party before responding to a pleading or, if no
 12 responsive pleading is permitted by these rules, upon motion made by a
 13 party within 20 days after the service of the pleading upon the party or
 14 upon the court's own initiative at any time, the court may order stricken
 15 from any pleading any insufficient defense or any redundant, immaterial,
 16 impertinent, or scandalous matter.

17 In this case the claims for relief are redundant and simply designed to cause additional
 18 expense and time to the Plaintiff. Further, it is possible that any award under the claims could be
 19 considered an abuse of discretion by the court. These claims should be made as affirmative
 20 defenses and nothing more. The claims are retaliatory, vexatious, unnecessary and designed
 21 simply to intimidate the Plaintiff and cause unnecessary expense.

22 Essentially, Randstad is arguing that Plaintiff is in breach of contract because they filed a
 23 breach of contract claim against Randstad. Further, that somehow, due to an indemnity clause,
 24 we must pay to represent Randstad against themselves.

25 All this represents is an attempt to have multiple attorneys representing multiple factions
 26 of the same lawsuit for the same parties. That is, a set of attorneys representing Randstad paid
 27 for by Plaintiffs, and another representing Randstad paid for by Randstad, and ultimately
 28 attempting to seek attorney's fees for all from Plaintiff. This is an absurd and ridiculous

² *Flamingo Realty, Inc. v. Midwest Development, Inc.*, 110 Nev. 984, 991-992, 879 P.2d 69, 73-74 (1994) (cites omitted).

1 possibility from the claims they have put forth, which are truly affirmative defenses. The
 2 attorney fees are a collateral matter handled by this court after the litigation has produced a
 3 judgment, assuming the attorney's fees are available by law, rule or contract. Not as damages to
 4 claims that are simply affirmative defenses.

5 In other words, Randstad is suggesting that Plaintiff does not have a right to file suit
 6 against Randstad. Nowhere in any document does is state that Plaintiff does not have a right to
 7 sue Randstad.

8 In fact, the "Agreement attached as Exhibit "A" to Defendant's Answer, Crossclaim and
 9 Counterclaim, is only a paycheck stub that must be filed every week for the employee. It is not
 10 the original agreement entered into by the parties. In other words, the Agreement is a necessary
 11 document in order that the employee be paid. Randstad appears to be bootstrapping that
 12 document into some sort of overall governing agreement, even though it is signed *only to verify*
 13 *the hours of the employee*, as it states under the signature.

14 After the Plaintiff has hired the person, after he has already been put in the position and
 15 after having been given the authority and job functions of a controller, the very position that
 16 Frontiera was hired for, Randstad is attempting to rewrite the agreement in fine print on an hours
 17 report to take back the very reason for his employment.

18 Further, Randstad appears to avoid the statements made to the public on their website,
 19 which is and was relied upon by the Plaintiff. That is:

20 vetted candidates
 21 Randstad's finance and accounting staffing experts are highly selective
 22 when choosing candidates for client introductions. Each candidate
 23 undergoes a qualification process that includes an extensive interview,
 24 reference check, degree verification and, if necessary, skills testing. Our
 25 finance and accounting staffing experts add valuable insight to deliver
 26 right-fit candidates. (See, Exhibit 1, attached hereto – emphasis added).

27 The website provides further affirmative statements regarding providing certain types of
 28 positions and the ability to provide qualified personnel, such as controllers and other high level
 executives. The representations in the counterclaim, are simply factual argument for an
 affirmative defense.

1 Alternatively, pursuant to NRCP 12(b)(5):

2 Every defense, in law or fact, to a claim for relief in any pleading, whether
3 a claim, counterclaim, cross-claim, or third-party claim, shall be asserted
4 in the responsive pleading thereto if one is required, except that the
following defenses may at the option of the pleader be made by motion:
... (5) failure to state a claim upon which relief can be granted..."

5 A pleading is subject to dismissal unless it alleges "enough facts to state a claim to relief
6 that is plausible on its face."³ This generally occurs in two circumstances: (i) the absence of a
7 cognizable legal theory, or (ii) there are insufficient facts under a cognizable legal claim.⁴

8 In this case, Randstad's claims fail to state a claim upon which relief can be granted as
9 Randstad's causes of action are nothing but disguised affirmative defenses. Randstad seeks
10 nothing but legal fees for having to defend the complaint, and indemnification of the same. No
11 separate cause of action exists in Nevada for attorney fees as they are an ancillary matter.⁵

12 Having to file an answer to affirmative defenses is a waste of time and only creates
13 additional costs and expenses throughout this action.

14 **III. CONCLUSION**

15 In accordance with the foregoing, Plaintiff respectfully requests that Defendant/Counter-
16 Claimant Randstad's Counterclaim be stricken such that the claims remain only as affirmative
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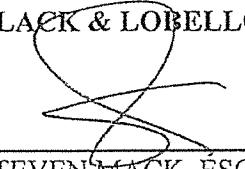
24 ³ See, *Straznick v. Desert Springs Hosp.*, 642 F. Supp. 2d 1238, 1240 (D. Nev. 2009) (quoting *Bell*
25 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 553-58 (2007)). Federal cases interpreting the Federal Rules of
26 Civil Procedure are "strong persuasive authority, because the Nevada Rules of Civil Procedure are based
in large part upon their federal counterpart." *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 119,
787 P.2d 772, 776 (1990)).

27 ⁴ *Robertson v. Dean Witter Reynolds, Inc.*, 749 F.2d 530, 534 (9th Cir. 1984).

28 ⁵ See, *Ace Truck, Infra. And Flamingo, Infra.*

1 defenses pursuant to NRCP 8(c) and require no answer, or in the alternative, dismissed in its
2 entirely.

3 DATED this 26 day of April 2016.

4 
5

6 STEVEN MACK, ESQ.

7 Nevada Bar No. 4000

8 10777 W. Twain Ave., Third Floor

9 Las Vegas, Nevada 89135

10 *Attorneys for Plaintiff*

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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & LOBELLO and that on the 21st day of April, 2016, I caused the above and foregoing document entitled **PLAINTIFF/COUNTERDEFENDANT'S MOTION TO STRIKE COUNTERCLAIM OR IN THE ALTERNATIVE, MOTION TO DISMISS** to be served as follows:

[X] by electronic service through Wiznet, Clark County Eighth Judicial District Court's electronic filing/service system;

[] pursuant to EDCR 7.26, to be sent via facsimile;

[] hand delivered

to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

MICHAEL C. MILLS, ESQ.
BAUMAN LOEWE WITT & MAXWELL, PLLC
3650 N. Rancho Dr. Ste 114
Las Vegas, NV 89130
Attorneys for Defendant
Randstad Professionals US, LP dba Randstad
Professionals

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;

Joseph Frontiera
172 Hawthorn Road
Defuniak Springs, FL 32435
Defendant

and that there is regular communication by mail between the place of mailing and the place(s) so addressed.

/s/ Shirley Blackburn
An Employee of Black & LoBello

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Las Vegas, Nevada 89135
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EXHIBIT “1”

EXHIBIT “1”

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home / staffing and solutions / staffing / finance & accounting staffing



finance and accounting experts

Built on more than 30 years of expertise, Randstad delivers high-quality finance and accounting professionals for the fundamental roles that power your business and impact your bottom line.

[contact to learn more](#)

best in class

With average satisfaction ratings four times the industry average (<https://www.bestofstaffing.com/2013/client/randstad-finance-and-accounting>), Randstad's finance and accounting staffing specialists deliver the talent your teams need to impact your organization's bottom line and its future success.



experience and focus

Having focused solely on finance and accounting staffing for over 25 years, our finance & accounting division comprises some of the most experienced specialists in the industry. We understand your business and match you with motivated individuals whose skills and experience will fuel your business initiatives.

better recruiters, better hires

right-fit candidates



Our finance and accounting staffing specialists invest the time with you upfront to ensure we thoroughly understand the hiring opportunity, your company culture and any complexities of the situation so as to select the best candidate for your consideration.



vetted candidates

Randstad's finance and accounting staffing experts are highly selective when choosing candidates for client introductions. Each candidate undergoes a qualification process that includes an extensive interview, reference check, degree verification and, if necessary, skills testing. Our finance and accounting staffing experts add valuable insight to deliver right-fit candidates.



your recruiting team

At Randstad, we use a team approach to source candidates and generate effective placements. As a client, you will have an established relationship with an individual finance and accounting staffing specialist and the full support of the larger office team who will be apprised of your requirements and the nuances of the position you seek to fill.



flexible staffing options

Our flexible staffing options include project (/staffing-and-solutions/staffing/contract-staffing/), project to direct hire (/staffing-and-solutions/staffing/contract-to-hire-staffing/) and direct hire (/staffing-and-solutions/staffing/direct-hire/) placement from the management to support levels. Our proprietary candidate database gives our finance and accounting staffing specialists a broad foundation from which to target qualified financial professionals for your business.



executive search services

Our client offerings also include chief financial officer (CFO), controller, and other high-level executive search and placement services. A select group of our finance and accounting staffing experts specialize in assisting clients who need strategic and C-level candidates for direct hire or consulting engagements. [learn more > \(/staffing-and-solutions/staffing/executive-search-services/\)](#)

positions we staff

Executives

- Chief Financial Officer (CFO)
- Controller
- VP of Finance
- VP of Accounting

Professionals

- CPAs
- CFA
- Tax accountants
- Investment analysts

Management

- Director of Finance

Support

- Bookkeeper

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- Director of Accounting
- Tax Manager
- Audit Manager
- Clerk
- Underwriter

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